

INITIAL STATEMENT OF REASONS/NON-CONTROLLING SUMMARY

Amendment of Property Tax Rule 462.180 Change in Ownership – Legal Entities

Specific Purpose

Rule 462.180 specifies the circumstances in which a legal entity undergoes a change in ownership and the property owned by the entity is reappraised. The specific purpose of the proposed amendments are:

- (1) to interpret Revenue and Taxation Code section 64 in a manner that clarifies that limited liability companies (LLCs) are to be treated as partnerships, so that their membership interests will be measured by their capital and profits interests;
- (2) to interpret Revenue and Taxation Code section 64 in order to clarify that there is no attribution of stock, partnership, LLC, or other legal entity interests between spouses, by adding an example demonstrating this principle.

Factual Basis

The rule interprets statutory provisions relating to transfers of real property involving legal entities and to transfers of stock, partnership, membership or other interests in legal entities that own real property and to the applicable exclusions from change in ownership.

Section 61, subdivision (f) provides that, unless otherwise excluded, transfers of real property interests involving legal entities result in change in ownership. Revenue and Taxation Code section 64, subdivision (a) provides that transfers of interests in legal entities is not a change in ownership except as provided in subdivision (j) of section 61 and subdivisions (c) and (d) of section 64.

Paragraph (1)(B) of subsection (d) of this rule is amended, in order to clarify that limited liability companies (LLCs) are to be treated as partnerships, such that their membership interests will be measured in terms of capital and profits interests for purposes of determining: (1) a change in control under Revenue and Taxation Code section 64(c); or (2) a change in ownership under section 64(d); or (3) the application of the exclusion from change in ownership under section 62(a)(2). A specific reference to “limited liability company” is added because the Legislature enacted statutory provisions authorizing this form of business entity and in general its membership interests are to be recognized as capital and profits interests.

Subsection (d), paragraph (2) is amended, in order to clarify that there is no attribution of stock, partnership, LLC, or other legal entity interests between spouses pursuant to Revenue and Taxation Code section 64. The clarification is most effectively accomplished by adding a new Example 7 under paragraph (2). The example is added to reflect more closely the language of the statute that it interprets in Revenue and Taxation Code section 64, which treats each “person” separately and does not authorize any attribution of interests between persons for change in ownership purposes.

The new Example 7 will result in the renumbering of Example 7 to Example 8, and the renumbering of Example 8 to Example 9, and the renumbering of Example 9 to Example 10, and the renumbering of Example 10 to Example 11. All examples are consecutively numbered for better organization.